

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

AHAMAD R. ATKINS,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

Civil No. 3:17-cv-00144-JPG

Criminal No. 4:14-cr-40061-JPG

MEMORANDUM AND ORDER

J. PHIL GILBERT, DISTRICT JUDGE

The Government has filed a motion asking for an order directing petitioner Ahamad Atkins's criminal defense attorney to provide a written response to Atkins's claims. (ECF No. 32.) This Court previously found that the petitioner's § 2255 motion raised allegations of ineffective assistance of counsel and ordered the Government to respond. Attorney Eugene Howard represented Atkins with respect to the allegations in the §2255 motion.

In light of the Seventh Circuit's decision in *United States v. Evans*, 113 F.3d 1457 (7th Cir. 1997), an order from the Court specifically finding that petitioner's allegations have waived the otherwise applicable attorney/client privilege and authorizing Mr. Howard to respond is necessary. In *Evans*, the Seventh Circuit noted that the "most prudent course" for a defense attorney to take before disclosing confidential communications and other information—even if they attorney believed that a waiver of the privilege had clearly occurred—is to secure an administrative or judicial determination that the disclosure would not violate the attorney client privilege. *Id.* at 1468.

The Court accordingly will **GRANT** the Government's motion and **FIND** that Atkins's allegations of ineffective assistance of counsel on the part of attorney Eugene Howard operate as

a waiver of the attorney/client privilege as to those allegations. **IT IS FURTHER ORDERED** that attorney Eugene Howard must provide a written response that addresses petitioner Ahmad Atkins's allegations of ineffective assistance of counsel raised in his § 2255 motion.

IT IS SO ORDERED.

DATE: NOVEMBER 14, 2018

s/ J. Phil Gilbert
J. PHIL GILBERT
DISTRICT JUDGE